

Appl. No. 10/065,176
Amdt. dated December 14, 2006
Reply to Office action of September 14, 2006

Amendments to the Drawings:

5 The attached sheet of drawings includes changes to Fig.1. This sheet, which includes Fig.1, replaces the original sheet including Fig.1. In Fig.1, a legend of "Prior Art" has been introduced, elements 20a, 20c, and 20e have been labeled "Audible Range", elements 20b and 20d have been labeled "Silent Range", element 12 has been relabeled "Sender", element 14 has been relabeled as "Receiver" and all shaded blocks have been labeled with a "D" indicating a delay as required by the Examiner. No new material has been introduced.

Attachment: Replacement Sheet

page(1)

REMARKS/ARGUMENTS

This is a full and timely response to the Office action of September 14, 2006. Claims 1, 4-5, 10 and 12-13 have been amended. A replacement sheet for Fig.1 is included as required by the Examiner. No new material has been introduced. Reconsideration of all claims in the application is respectfully requested.

1. Drawings

A replacement sheet for Fig.1 is attached to this response and has changes required by the Examiner. Reconsideration of the drawing objection is respectfully requested.

2. Claim rejections 35 USC 112, second paragraph

Claims 4, 5, 12, and 13 are rejected under 35 USC 112, second paragraph, as being indefinite.

Claims 4, 5, 12, and 13 have been amended to more correctly conform to the teachings of Paragraph [0052] of the specification as published. Reconsideration of the 35 USC 112, second paragraph rejection of claims 4, 5, 12, and 13 is requested.

3. Claim rejections 35 USC 112, first paragraph

Claims 1-16 are rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. "With respect to claims 1 and 10, the claimed method and device need to calculate a playout delay for current packet, as specified in Step 106, in which the playout delay is based on Eqns. 2."

The present application discloses and claims a device and method for improving communications quality by delaying playout of received packets according to the duplex and the playout delays of previous packets (Paragraph [0067]). Paragraph [0051] teaches "The playout delay depends on the jitter measurement for the current packet, a smoothing factor,

and the actual playout delays for the previous packets. The playout controller 42 selects the scaling and smoothing factors depending on the mode of packet communication, either FULL_DUPLEX or HALF_DUPLEX, as determined by the active detector 40.”

This is the invention.

- 5 Paragraph [0052] continues by describing the purpose and result of using each of the scaling and smoothing factors to overcome the problem addressed by the invention.

- Turning now to claim 1 (and claim 10 by analogy), the invention is claimed in part as
“calculating a playout delay for a current packet based on the detected packet
10 communication mode and the playout delays of previous packets”.

This claim is the same invention that is disclosed in Paragraphs [0051] and [0052].

- No detailed formula is specified by the claim and the applicant asserts that nor is a
specific formula required to be detailed in the specification for enablement purposes.
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- For example the Examiner has rejected claims 1-3, 6-11, and 14-16 under 35 USC
103(a) as being unpatentable over Jain in view of Rapeli. If, and only if for the sake of
discussion, the cited rejections are considered persuasive, then subject material of claims
1-3, 6-11, and 14-16 logically should be considered enabled not only because Jain is
20 incorporated into the current application (Paragraph [0015]) by reference (MPEP
2163.07(b)) but also because both Jain and Rapeli were published before the filing date of
the instant application. “A patent need not teach, and preferably omits, what is known in
the art” (MPEP 2164.01).

- That would leave the subject matter of claims 4-5 and 12-13. As an example, the
25 subject matter of amended claim 4 is “when the packet communication mode is detected
to be the half-duplex mode, the calculated playout delay for the current packet depends
more on the playout delays of the previous packets than when the packet communication
mode is detected to be the full-duplex mode”.

True, the word “calculated” in the claim implies mathematics of some sort, but in light of the teachings of Paragraph [0052], especially in conjunction with incorporated teachings of Jain, the presence or absence of a specific formula in the specification should not be a serious experimental problem to one skilled in the art to figure out how to

5 practice the invention. The Examiner pointed out (Page 7) that Jain has already disclosed using somewhat similar equations for a gain filter and it would not seem unreasonable for one skilled in the art to figure out an equation or that performs the claimed function. MPEP 2164.01 says “The test of enablement is not whether any experimentation is necessary, but whether, if experimentation is necessary, it is undue.” MPEP 2164.01(a)

10 says “It is improper to conclude that a disclosure is not enabling based on an analysis of only one of the above factors”....”and any conclusion of nonenablement must be based on the evidence as a whole.”

An example of one equation that could be found without undue experimentation that would utilize the teachings of the present application is:

IF $M_i = \text{FULL_DUPLEX}$ THEN
 $J_i = MV_i \times \text{FSF}$
 $PD_i = \text{FF} \times PD_{i-1} + (1 - \text{FF}) \times J_i$

15 ELSE
 $J_i = MV_i \times \text{HSF}$
 $PD_i = \text{HF} \times PD_{i-1} + (1 - \text{HF}) \times J_i$

For at least the above-cited reasons, the applicant asserts that even without a specific formula, undue experimentation is not necessary for one skilled in the art to practice the instant invention. Reconsideration of the 35 USC 112, first paragraph rejection is

20 respectfully requested.

3. Claim rejections 35 USC 103(a)

Claims 1-3, 6-11, and 14-16 are rejected under 35 USC 103(a) as being unpatentable

over Jain (US 6,259,677) in view of Rapeli (WO 99/13608).

The Examiner states on Page 6 of the current Office action that Rapeli teaches detecting whether communications are being carried out in full or half duplex mode and applying a longer playout delay when using half-duplex mode. This is similar to what the HSF and FSF factors described in the first portion of Paragraph [0052] are used for. However, the applicant is unaware of prior art teaching the use of the full and half duplex smoothing factors FF and HF (Paragraph [0052]) which provide, not necessarily a shorter playout delay in full-duplex mode, but rather provide a more rapid adjustment of the playout delay by causing the playout delay to depend more on current network jitter and less on playout delays of previous packets when in full-duplex mode than when in half duplex mode, thus giving full-duplex mode relatively quicker response (Paragraph [0052]). This limitation is present in the amended claims 1 and 10.

For at least these reasons, reconsideration of claims 1-3, 5-12, and 14-16 is respectfully requested.

Sincerely yours,



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